

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ZOSTAVAX (ZOSTER VACCINE : MDL NO. 2848  
LIVE) PRODUCTS LIABILITY :  
LITIGATION : CIVIL ACTION NO. 18-md-2848

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THIS DOCUMENT RELATES TO:

JOHN MICHAEL BUSH and JOHNNY  
MITCHELL v. MERCK & CO., INC.,  
et al.  
Civil Action No. 19-1117

RICHARD DOMAN and MAUREEN M.  
DOMAN v. MERCK & CO., INC.,  
et al.  
Civil Action No. 18-20118

DAVID R. ELMEGREEN as Trustee of  
THE SUE A. ELMEGREEN TRUST v.  
MERCK & CO., INC., et al.  
Civil Action No. 17-2044

JOHN NIEDZIALOWSKI and KATHERINE  
NIEDZIALOWSKI v. MERCK & CO.,  
INC., et al.  
Civil Action No. 19-20025

EMILY SANSONE v. MERCK & CO.,  
INC., et al.  
Civil Action No. 18-20114

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PRETRIAL ORDER NO. 402

AND NOW, this 10th day of November, 2021, for the  
reasons stated in the foregoing Memorandum, it is hereby ORDERED  
that the motion of defendants Merck & Co., Inc. and Merck Sharp  
& Dohme for summary judgment based on preemption of plaintiffs'  
design defect claims is DENIED.

BY THE COURT:

/s/ Harvey Bartle III

J.